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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/007,207
Filing Date: November 10, 2001
Appellant(s): SHUPING ET AL.

Rick A. Toering
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 January 2006 appealing from the Office action mailed 25 May 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

An Appeal Brief has been filed in related SN 09/985,415, commonly owned with the present application, as indicated in the brief at page 2.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

As indicated at page 2 of the brief, claims 1 – 28, 39 – 64 are pending, with claims 29 – 38 canceled.

However, claim 46 is also rejected, under 35 USC 112, second paragraph; claims 1 – 11, 14 – 28, 39 – 40, 43 – 58, 61 – 64 are the claims indicated as rejected in the final rejection (the text on the form PTOL-326 failed to incorporate claim 46 into the listing of rejected claims).

As indicated in the brief, claims 2, 12 – 13, 39 – 42, 46, 53, 59 – 60 have been indicated as allowable over the prior art of record. However, only claims 2, 39 – 40, 53 among these are rejected under the judicially-created doctrine of double patenting.

The correct statement of those claims on appeal should be claims 1 – 11, 14 – 28, 39 – 40, 43 – 58, 61 – 64, when taking into account rejections based upon double patenting, 35 USC 112 second paragraph, and 35 USC 103 that remain to be resolved.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

In addition to the rejections under 35 USC 103 that are mentioned at page 8 of the brief, three additional grounds of rejection continue to apply:

Claims 1 – 3, 20 – 21, 26 – 28, 39 – 40 are rejected under the judicially-created doctrine of double patenting as conflicting with US Patent No. 6,313,855 B1 and claims 1 – 3, 20 – 21, 26 – 28, 39 – 40, 47 – 53 are rejected under the judicially-created doctrine of double patenting as conflicting with related application SN 09/985,415. At page 8 of the brief, "Appellants do not appeal these rejections in the Appeal Brief. Rather, Appellants will file a terminal disclaimer once the extent of the otherwise patentable subject matter has been determined". However, since such terminal disclaimers have not in fact been filed, the double patenting rejections remain and become a further ground of rejection presented for review on appeal.

Claim 46 is further rejected under 35 USC 112, second paragraph. At page 9 of the brief, "Appellants will attend to an amendment of claim 46 once the otherwise patentable subject matter has been determined." However, since the problem has not in fact been remedied, the 35 USC 112, second paragraph rejection remains, and becomes a still further ground of rejection presented for review on appeal.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

AT & T Corp. ("AT & T"), Publication No. WO 97/29414, published 14 August 1997

6,133,916	Bukszar et al. ("Bukszar")	10-2000
5,838,326	Card et al. ("Card")	11-1998
6,433,795 B1	MacNaughton et al. ("Mac Naughton")	8-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(a) Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While parent claim 44 recites "rendering a first web page", there is no comparable antecedent basis for claim 46's "said rendering a second web page" (line 3).

(b.1) Claims 1 – 3, 20 – 21, 26 – 28, 39 - 40 are rejected under the judicially created doctrine of double patenting over claims 1 - 41 of U. S. Patent No. 6,313,855 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

(b.2) Claims 1 – 3, 20 – 21, 26 – 28, 39 – 40, 47 – 53 are also provisionally rejected under the judicially created doctrine of double patenting over claims 1 – 68 of copending Application No. 09/985,415. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application reads directly upon the subject matter claimed in the '855 patent and '415 application, since they are claiming common subject matter, as follows: a web-browsing arrangement is such that plural display regions carry plurally-rendered web-pages that are associated with one another. Various details include the specification of a bookmarked scene, the embodiment within a three-dimensional environment, and the use of plural browser instances to display the associated pages.

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(c.1) **Claims 1, 3, 6, 9 – 11, 14 – 16, 20 – 21, 26 – 28, 43 – 45, 47 – 52, 54 – 58, 61 – 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over International Publication WO 97/29414 to AT & T Corp. (“AT & T) in view of Bukszar et al. (“Bukszar”; US #6,133,916).**

As in independent claim 1’s “method for browsing web pages” (see also independent claim 20), AT & T’s METHOD AND APPARATUS FOR PASSIVELY BROWSING THE INTERNET displays images from web pages on a user’s display screen (Abstract). A montage application 40 operates in conjunction with a web browser 36 (page 7, lines 1 – 21; fig 3), the browser “receiving first web page data including a plurality of references” (see also claim 21). The montage presents a group of web images that may be based on the currently displayed page of an active web browser (page 10, line 34 – page 11, line 3). Notably in AT & T, web pages corresponding to links appearing on the web pages entered by the user are retrieved (page 18, lines 5 – 26), as in “receiving indicia specifying a subset of said plurality of references” (the “references” in the currently displayed page, where a possible “subset” can simply be all of the links), and “automatically requesting web page data associated with said subset of said plurality of references” (calling forth the images corresponding to links after accessing further web pages). AT & T’s web page images within the montage appear within “a second panel” that occurs in conjunction with the browser used for “rendering a first web page” in “a first panel”, as shown in figs 1, 2.

AT & T’s procedure for showing plural, related web page imagery in the montage is principally concerned with displaying images from web pages, and while AT & T’s

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currently displayed web page uses data that directly reads upon that used in claim 1's "rendering a first web page", "rendering additional web pages" (as distinguished from displaying only images from such pages) is not **explicitly** taught by AT & T.

However, it was known in the art at the time of applicant's invention to use entire "web page" images from a related series of such pages in a composite display, as in Bukszar, where [a]t least one **graphical representation of a file** stored in the cache is **displayed in a display region** of the graphical user interface (Abstract). The Bukszar files may be HTML web pages, downloaded from a server over a network, such as the Internet. Fig 4 shows an example in Bukszar of representations 46A – 46E of a **miniature of a page** of data in the file (col 2, lines 7 – 23). The graphical representation of pages 46A – E may represent the most recently visited web pages. (col 4, lines 14 – 16), as in a browsing history where a "first web page" and "additional web pages" are accessed sequentially. As in AT & T, such multiple imagery is displayed together, in Bukszar's tilled screen area 44.

Thus, it would have been obvious to a person having ordinary skill in the art at the time of appellant's invention to modify the web browser and montage arrangement of AT & T, where linked "web page" imagery is jointly displayed with the original page having the links, to use the graphical representation of an entire "web page" as per Bukszar's graphical representation of page, the motivation being to create a fuller and more readily-appreciated and –useful representation in the browser view of the overall context of history that is produced in the AT & T linked page view. Bukszar provides specific assistance to AT & T by showing an orderly arrangement of pages that are the

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most recently visited, and the user is able to appreciate the overall context better by seeing whole pages as a miniature of a page, and not partially-dissociated images as in the linked-item AT & T display.

AT & T appears to use unmodified images from web pages, rather than the “thumbnail image” recited in claims 3, 14, 15, 61, 62. However, this is the result of the modification to use the miniature version found in the page representations of Bukszar. In such a case, the user is still given a useful hint of what the page in the series contains.

As per claim 6’s “subset of said plurality of references” that is “one or more user selected references”, while AT & T allow initial access of information from a current and linked-to set of pages, calling forth “user selected” “references” is not **explicitly** disclosed.

However, Bukszar, in permitting a user to select **favorite** web pages to store in the cache and represent as graphical representations (col 4, lines 14 – 25), allows the cached page to be displayed in the content area 42 of fig 4. This is a direct result of “user” activity, in the form of **favorite** selection. The Bukszar user picks from among visited pages for those to keep.

Thus, it would also have been obvious to the person having ordinary skill in the art to call a main page and linked-to pages as per AT & T by means of a favorite menu as per Bukszar, the motivation being the incorporation of an ability to achieve ready access to those positions in AT & T that the user may determine to be particularly important. When doing this selection of items in a browsing history to bookmark as

favorite, the tiled screen area 44 will contain miniature version representations of those linked-to web pages that the user had specifically selected.

Bukszar's ability to include user-determined choices for a "panel"-based browsing output in combination with AT & T then suggests the independent claim 9 "rendering" of a "first web page" and web pages for a "plurality of user selectable references" (see also independent claims 16, 44, 54). The "second panel" of AT & T (which is identically disclosed as being within the montage) will then contain the full "web page" representation as per Bukszar's tiled screen area, as in claim 10 (or, indeed, "a separate second panel" as in claim 11). The panels are "contemporaneously displayed", as in claim 43, because AT & T uses the montage and browser applications together and Bukszar teaches plural miniature version items 46A – 46E. User determination as per Bukszar can also provide "another web page using said another web page data" (claims 45, 55), if the user has so chosen. These additional page representations can be seen as being part of a "second" (claims 56, 57) or "third" (claim 58) panel, in interpreting the AT & T montage and its arrangement of additional display regions.

The related "web page" contents supplied by AT & T/Bukszar are disclosed as resulting from general-purpose browsing, and thus may be "from a single web site" (claim 26) or "separate web sites" (claim 27). In specifying the final montage layout in AT & T, "positioning" is indicated for the "second panel" (claim 28).

As per independent claim 47's "bookmarking web pages" by "storing a bookmark for a scene" that contains "a first reference to said first web page", as by "storing first

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web page data" (claim 49) as a "local copy" (claim 50) to be used for "requesting first web page data" (claim 51), and "a second reference to said second web page" for "requesting second web page data" (claim 52), the montage display of AT & T will be similarly created to contain the "web page" images of Bukszar in such coordination, when Bukszar's above-noted favorite storage is used as a source. When the bookmarking in Bukszar is employed to retrieve a cached page to be displayed in the content area 42, the teaching of AT & T will then render a "first" and "second panel" for the two images (claim 48).

(c.2) Claims 17 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over AT & T in view of Bukszar and Card et al. ("Card"; US #5,838,326).

AT & T is **explicitly** disclosed as generating a 2-dimensional browser/montage display for linked "web page" information images as is Bukszar, and these are not shown as "a room in a three-dimensional space, said room having a first wall, a second wall, and a third wall" as in independent claim 17.

However, Card clearly shows that it was known in the art to create such a spatial array of document objects in a **three dimensional document workspace**. Fig 2a shows the use of three "wall" locations for Document Object 201 and 202a, 202b. Card also specifically contemplates that web page items might appear at the focus ("current"), bookcase ("future"), and tiers ("past"; col 6, line 62 – col 7, line 39).

Thus, it would have been still further obvious to the person having ordinary skill in the art at the time of appellant's invention to produce a "three-dimensional" distribution

of document objects as per Card to represent the linked “web page” displays as per AT & T/Bukszar, the motivation being to make the information more intuitively accessible to the user, who must comprehend a number of related representations at one time.

The Card “room” is clearly “navigable in said three-dimensional space” (claim 18), and as a user progresses from one document to another, a “third wall” “future” item can be moved to a “second wall” “current” location (claim 19), by taking something from the bookcase and moving it to the focus.

(c.3) Claims 4 – 5, 7 – 8, 22 – 25, 63 - 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over AT & T in view of Bukszar and MacNaughton et al. (“MacNaughton”; US #6,433,795 B1).

While “additional web pages” may be called in the AT & T/Bukszar combination through either the links embodied in an original page (AT & T) or the user (Bukszar, with bookmarked favorites), these two references alone do not extend to the point of obtaining such “references” from “a prioritized list” obtained with “said first web page data”, as in claims 4, 5, 7, 23, 24 nor the sourcing from “a third party” (claim 8) or “independently from said current web page data” (claim 22).

However, it was known in the art, as seen in MacNaughton's SYSTEM FOR INTEGRATING AN ON-LINE SERVICE COMMUNITY WITH A FOREIGN SERVICE, to link a “web page” to other content depictions that are selectively sourced from secondarily-derived “references”, since MacNaughton's disclosure is of coupling related on-line service displays with relevant locations in the Internet World Wide Web

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(Abstract). Please note in MacNaughton's fig 6 the way that the WEB HEADS – COMMUNITY is associated with the compuserve.com site appearing in the Explorer browser (see also col 23, lines 12 – 51).

Therefore, it would also have been obvious to the person having ordinary skill in the art to link the "web page" "panel" objects as seen in the AT & T/Bukszar combination by "references" found in places other than the content of the "web page" or user selection, using MacNaughton's technique of INTEGRATING related-but-disparate content. The motivation rests in the type of user environment that each of AT & T and Bukszar are involved with, where anything to assist the user's browsing experience will be a benefit, as in having the additional direction of MacNaughton.

In MacNaughton, then, "content similar to content included in said current web page" appears (claims 25), when the affinity-group-specific pages are seen in the COMMUNITY panel. MacNaughton's ON-LINE SERVICE adaptability extends to the typical mode of "advertising" (claim 63) that is seen in such settings, and this would ordinarily need to "be displayed in said first panel" (claim 64) in a single browser implementation.

(10) Response to Argument

Appellant begins the arguments at page 9 by alleging that "the combination of references relied upon by the Examiner does not teach or suggest the claimed invention", specifically, the "receiving indicia specifying a subset of said plurality of references", "automatically requesting web page data associated with said subset" and

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“rendering additional web pages using said requested web page data in a second panel”—“the Examiner fails to address these claim features in the rejection”.

In response, the Examiner hopes that the above efforts to clarify the ground based on AT & T in view of Bukszar will help to alleviate these difficulties in perceiving the references’ applicability. AT & T accesses further web pages based upon the links found in a browsed-to page. By finding these additional pages, a “subset of said plurality of references” is accessed, since it is well established that a “subset” can in fact include the total set to which it refers. Even if one requires the “subset” to be only a portion, but not all, of the overall set of “references”, the reference Bukszar teaches that a user may specify particular pages to retain as favorites over the course of browsing to web pages. In this scenario, those items found in linked-to pages that are bookmarked in Bukszar’s style will constitute a “subset” that is retained in the icon display area 44. In yet another alternative, Bukszar’s maintaining of history *per se* in the miniature representations will record which sites from a given site the user subsequently navigated to. In this, the icons left for “second panel” display will represent just a “subset” of possible linked-to pages indicated in the initial web page.

Thus, making a selection from the links appearing in AT & T’s browser, to be passed on to a montage display along the lines of Bukszar’s multiple web page miniature representations, occurs in the art of record, either by the computing system taking the entire set, which is still a “subset” (AT & T’s identical disclosure), or by retaining links that a user selectively chooses (Bukszar’s recording of bookmarks and

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history), and claims along these lines remain broad enough to be rendered obvious given such a combination, under 35 USC 103.

Further on the topic of AT & T in view of Bukszar, appellant argues at pages 9 – 11 that “one of ordinary skill in the art would not be motivated to combine the references in the manner set forth by the Examiner because AT&T teaches away from such a combination”. “When read as a whole, AT&T apparently teaches that during browsing, it is desirable to render just the images from the multiple web pages rather than to render the web pages themselves”.

However, there remains a motivation in the montage display of AT & T to show linked-to page data in a form that assists the user. What AT & T principally objects to is the manner in which the active web browser is typically called upon to present a sequence of browsing locations within the context of the browser, where the user is unable to appreciate with this limited access just what is at the various pages of a total inquiry. AT & T sets forth at page 1:

Accessing web pages with interesting inlined images typically involves browsing through web pages of material by clicking on hypertext links. Although browsing in this way is often rewarding, it requires a good deal of attention on the part of the person who is browsing and can be burdensome.

AT & T's solution and teaching is that of plural images in the single montage view that are derived from the currently viewed page on a browser. By doing this, AT & T shows in a single view what would ordinarily need to be seen in a time-sequence of pages. AT & T therefore does not “teach away” from the joint presentation of plural web page images, should that be a useful format such as Bukszar teaches. AT & T's principal

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desire and relevant teaching is one of seeing in the single view those additional images of “web page data” that are indicated by “references associated with web page data”.

Concerning those rejections that rely upon MacNaughton such as the one applicable to claim 4, appellant argues at pages 11 – 12 that “there is no motivation from the references themselves to combine them in the manner suggested by the Examiner. The Examiner appears to be using impermissible hindsight to reconstruct the features of Appellants’ claimed invention”. However, MacNaughton bears close analogy to both of AT & T and Bukszar, and would be recognized in the repertoire of the person having ordinary skill in the art of web browsing and navigation that follows links such as “references associated with web page data”. To obtain a “prioritized list” of links reads upon MacNaughton’s association by an online service of related web content. This increases the utility of both of AT & T and Bukszar. AT & T can work with a list of URLs, as well as web pages associated with the currently displayed page of an active web browser (page 5, lines 13 – 34). It is not unreasonable, then, to picture the selected further links from a given web page being derived from third-party selection and specification. This implements a goal also seen in Bukszar, with the bookmarking of favorites, in that links as selected by still further users may be included in the choices for the web page miniature representations.

Further concerning MacNaughton, appellant argues at page 12 that “As recited in the claim, the indicia specifies a subset of the plurality of references ***found in the first web page data***. This differs from receiving references to content, as allegedly taught by MacNaughton, found outside the first web page data.” However, it is from AT & T

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that the Examiner notes the selection of links from a currently displayed web page, and MacNaughton is relied upon to show the provision of AT & T's list of URLs from sources other than the user's site. Appellant appears to be impermissibly attacking the references one at a time, by requiring such complete identity between MacNaughton and the claimed invention. A similar line of reasoning applies to appellant's arguments at pages 12 – 13 that concern claim 5, and also those arguments concerning claims 7, 8 at pages 14 - 15.

Regarding appellant's argument at pages 13 – 14, the actual rejection of claim 6 under 35 USC 103 was based upon AT & T and Bukszar alone, and did not include MacNaughton. Bukszar's retention of user directives and history is sufficient by itself to read upon "one or more user selected references".

Concerning claims 9 – 11, 14 – 15, 43, appellant argues at page 15 that "The Examiner does not allege, nor does AT&T in combination with Bukszar teach or suggest, that the 'user-determined choice' (*i.e.*, the references designated by the user) are found in the web page." However, in the case of Bukszar's selective navigation to and bookmarking of individual links from within a first web page, "selected references designated by a user" are indeed the subject of a request. User choice in Bukszar is a possible supplement to the provision of a list of URLs, as it may generally be supplied in AT & T. A similar line of reasoning applies to appellant's argument concerning claim 16 on page 16.

At pages 16 – 17, appellant argues first "that AT&T and Bukszar is not properly combinable with Card" and that "The Examiner appears to be using impermissible

hindsight to reconstruct the features of Appellant's claimed invention", and then that there is no teaching or suggestion in "AT&T in combination with Bukszar" "that the 'user-determined choices' (*i.e.*, the hyperlinks selected by the user) are found in the current web page." However, the implementation of a three-dimensional metaphor to provide document images as in Card has direct applicability to the selective rendering of web page imagery as in AT & T/Bukszar, and the goal of user assistance as is evident as a concern in those references is decidedly advanced with such a familiar interface as Card's. The matter of user choices being found in the current web page has already been addressed, in the above discussion of the user control that is found in Bukszar. Indeed, Card even suggests that the user selects particular further items from within the current context, in the navigational interface that allows documents to be selected from the various "wall" locations.

Concerning claims 47 – 52, appellant argues at page 18 that, "Contrary to the Examiner's contention, Bukszar does not store a bookmark for a scene where the bookmark includes a first reference to said first web page and a second reference to said second web page". "At best, Bukszar stores individual references to web pages, not collectively as a single bookmark". However, the bookmarking of individual pages in Bukszar, when taken as a modification to AT & T, will indeed return a "scene" when that bookmark is selected at a later point and the AT & T access of a group of web images that may be based on the currently displayed page of an active web browser then acts to find related pages and create a display for them. The "scene" that existed at the time

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the “first web page” was first encountered by the active web browser will then be restored.

As per appellant’s argument concerning claims 54, 56, 61 at page 19, alleging the supposed failure of “AT&T in combination with Bukszar” to teach or suggest “user-determined choices” from “the first web page”, this has been discussed at length above, as in the response to the argument concerning claims 9 – 11, 14 – 15, 43.

The matter of “requesting third web page data associated with said second one of the plurality of selected references” (argument concerning claims 55, 57 – 58, 62 at pages 19 – 20) is just what happens when a user as in Bukszar decides to pick another link and incorporate its miniature representative display into the set of icons appearing in the tray. The end result, in application to AT & T, is that the first web page appears in its panel, along with the two linked-to pages that are designated by the user for a concurrent display such as in the montage.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

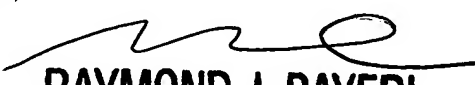
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Conclusion

For the above reasons, it is believed that the rejections should be sustained. A 35 USC 112, second paragraph rejection remains outstanding, as do the two double patenting rejections based upon the related SN 09/985,415 and Patent No. 6,313,855 B1, and the various claims directed to the display of plural "web page" regions are obvious under 35 USC 103, in view of combinations of AT & T / Bukszar, and with MacNaughton and/or Card.

Respectfully submitted,

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29 March 2006

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